

Senate Engrossed

State of Arizona
Senate
Forty-seventh Legislature
First Regular Session
2005

CHAPTER 61

SENATE BILL 1419

AN ACT

AMENDING SECTION 49-282, ARIZONA REVISED STATUTES, AS AMENDED BY LAWS 2003, CHAPTER 167, SECTION 1; REPEALING SECTION 49-282, ARIZONA REVISED STATUTES, AS AMENDED BY LAWS 2003, CHAPTER 104, SECTION 43; BLENDING MULTIPLE CONFLICTING AMENDMENTS; RELATING TO THE WATER QUALITY ASSURANCE REVOLVING FUND.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Section 49-282, Arizona Revised Statutes, as amended by
3 Laws 2003, chapter 167, section 1, is amended to read:

4 49-282. Water quality assurance revolving fund

5 A. A water quality assurance revolving fund is established to be
6 administered by the director. The fund consists of monies from the following
7 sources:

8 1. Monies appropriated by the legislature.

9 2. Fertilizer license fees allocated under section 3-272, subsection
10 B, paragraph 2.

11 3. Pesticide registration fees allocated under section 3-351,
12 subsection D, paragraph 2.

13 4. The tax on water use pursuant to section 42-5302.

14 5. Water quality assurance fees collected under section 45-616.

15 6. Industrial discharge registration fees collected under section
16 49-209.

17 7. Manifest resubmittal fees collected under section 49-922.01.

18 8. Hazardous waste facility registration fees collected under section
19 49-929.

20 9. Hazardous waste resource recovery facility registration fees
21 collected under section 49-930.

22 10. Monies recovered from responsible parties as remedial action costs.

23 11. Monies received as costs for a review of remedial actions at the
24 request of a person other than the state.

25 12. Monies received from the collection of corporate income taxes under
26 title 43, chapter 11, article 2 as prescribed by subsection B of this
27 section.

28 13. Prospective purchaser agreement fees collected under section
29 49-285.01.

30 B. The water quality assurance revolving fund shall be assured of an
31 annual funding amount of eighteen million dollars. Beginning July 1, 1999,
32 as soon as practicable at the beginning of each fiscal year, the state
33 treasurer shall transfer the sum of fifteen million dollars to the water
34 quality assurance revolving fund from the corporate income tax as collected
35 pursuant to title 43, chapter 11, article 2. As custodian of the fund, the
36 director shall certify to the governor, the state treasurer, the president of
37 the senate and the speaker of the house of representatives at the end of that
38 fiscal year the amount of monies deposited in the water quality assurance
39 revolving fund pursuant to subsection A, paragraphs 1 through 9 of this
40 section. At the end of the fiscal year the state treasurer shall adjust the
41 fifteen million dollar transfer of corporate income tax so that, when
42 combined with monies deposited in the fund during that fiscal year pursuant
43 to subsection A, paragraphs 1 through 9 of this section, the fund receives
44 eighteen million dollars each fiscal year. This adjustment shall occur as
45 part of the year-end book closing process for that fiscal year. If

1 sufficient monies from the corporate income tax are not available to make any
2 necessary upward adjustments as part of the year-end book closing, the state
3 treasurer shall transfer the monies necessary to achieve the eighteen million
4 dollar funding level from the transaction privilege and severance tax
5 clearing account pursuant to section 42-5029, subsection D, paragraph 4, to
6 the water quality assurance revolving fund. Any transfers prescribed by this
7 subsection shall not be deducted from the net proceeds distributed pursuant
8 to section 43-206.

9 C. At the beginning of each fiscal year, the director of environmental
10 quality shall contract with the department of water resources for the
11 transfer of up to eight hundred thousand dollars from the water quality
12 assurance revolving fund to the Arizona water quality fund established by
13 section 45-618 for support services for the water quality assurance revolving
14 fund program. The support services provided for the water quality assurance
15 revolving fund program shall be determined by the director of water resources
16 in consultation with the director of environmental quality.

17 D. Monies in the fund are exempt from lapsing under section 35-190.
18 Interest earned on monies in the fund shall be credited to the fund.

19 E. Monies from the water quality assurance revolving fund shall be
20 used for the following purposes:

21 1. To provide state matching monies or to meet such other obligations
22 as are prescribed by section 104 of CERCLA.

23 2. For all reasonable and necessary costs to implement this article,
24 including:

25 (a) Taking remedial actions.

26 (b) Conducting investigations of an area to determine if a release or
27 a threatened release of a hazardous substance exists.

28 (c) Conducting remedial investigations, feasibility studies, health
29 effect studies and risk assessments.

30 (d) Identifying and investigating potentially responsible parties and
31 allocating liability among the responsible parties.

32 (e) Funding orphan shares.

33 (f) Participating in the allocation process, administrative appeals
34 and court actions.

35 (g) Funding the community advisory boards and other community
36 involvement activities and the water quality assurance revolving fund
37 advisory board.

38 (h) Remediating pollutants if necessary to remediate a hazardous
39 substance.

40 3. For the reasonable and necessary costs of monitoring, assessing,
41 identifying, locating and evaluating the degradation, destruction, loss of or
42 threat to the waters of the state resulting from a release of a hazardous
43 substance to the environment.

1 4. For the reasonable and necessary costs of administering the fund.
2 5. For the reasonable and necessary costs of administering the
3 industrial discharge registration program under section 49-209.

4 6. For the costs of the water quality monitoring program described in
5 section 49-225.

6 7. For compliance monitoring, investigation and enforcement activities
7 pertaining to generating, transporting, treating, storing and disposing of
8 hazardous waste. The amount to be used pursuant to chapter 5 of this title
9 is limited to the amount received in the prior fiscal year from the hazardous
10 waste facility registration fee.

11 8. For emergency response use as prescribed in section 49-282.02.

12 9. For all reasonable and necessary costs of the preparation and
13 execution of prospective purchaser agreements.

14 10. For all reasonable and necessary costs of the voluntary remediation
15 program.

16 11. To reimburse a political subdivision of this state for its
17 reasonable, necessary and cost-effective remedial action costs incurred in
18 response to a release or threat of a release of a hazardous substance or
19 pollutants that presents an immediate and substantial endangerment to the
20 public health or the environment. The political subdivision is not eligible
21 for reimbursement until it has taken all reasonable efforts to obtain
22 reimbursement from the responsible party and the federal government. No more
23 than two hundred fifty thousand dollars may be spent from the fund for this
24 purpose in any fiscal year.

25 12. For all reasonable and necessary costs incurred by the department
26 pursuant to section 49-282.04 and the department of water resources pursuant
27 to section 45-605 for well inspections, remedial actions and review and
28 approval of well construction necessary to prevent vertical
29 cross-contamination. The director of environmental quality and the director
30 of water resources shall enter into an agreement for the transfer of these
31 costs.

32 13. For actions that are taken pursuant to section 49-282.03 before the
33 selection of a remedy.

34 14. For the reasonable and necessary costs of the conveyance, use or
35 discharge of water remediated as part of a remedy under this article.

36 15. For the reasonable and necessary costs incurred by the department
37 of health services at the request of the director of environmental quality to
38 assess and evaluate the effect of a release or threatened release of
39 hazardous substances to the public health or welfare and the
40 environment. The director of environmental quality and the director of the
41 department of health services shall enter into an agreement for the transfer
42 of these costs. The assessment and evaluation by the department of health
43 services may include:

1 (a) Performing health effect studies and risk assessments.

2 (b) Evaluating and calculating cleanup standards.

3 (c) Assisting in communicating health and risk issues to the public.

4 16. For the reasonable and necessary costs incurred by the department
5 of law to provide legal services at the request of the director of
6 environmental quality.

7 17. For the reasonable and necessary costs of contracting for the goods
8 and services to enable the director to implement this article.

9 18. For remediation demonstration projects that use bioremediation or
10 other alternative technologies. The department may not use more than five
11 hundred thousand dollars in a fiscal year pursuant to this paragraph.

12 F. Any political subdivision of this state which uses, used or may use
13 waters of the state for drinking water purposes or any state agency,
14 regardless of whether the political subdivision or state agency is a
15 responsible party, may apply to the director for monies from the fund to be
16 used for remedial action. An application to the fund for remedial action
17 costs shall not be treated as an admission that a political subdivision or an
18 agency of the state is a responsible party, but a political subdivision or a
19 state agency that is a responsible party is liable for remedial action costs
20 in the same manner, including reimbursement of the fund, as any other
21 responsible party. The political subdivision shall commit a local matching
22 amount at least equal to the amount sought from the fund.

23 ~~G. In consultation with the water quality assurance revolving fund~~
24 ~~advisory board established by section 49-289.04, the director shall prepare~~
25 ~~and submit a written report to the speaker of the house of representatives,~~
26 ~~the president of the senate, the minority party leader in the house of~~
27 ~~representatives and the minority party leader in the senate, the governor,~~
28 ~~the members of the joint legislative budget committee and the director of the~~
29 ~~joint legislative budget committee by December 1 of each year. The report~~
30 ~~shall include information concerning at least the following:~~

31 ~~1. Emergency response actions, priority site remediation, cost~~
32 ~~recovery activity revenue and expenditures and other water quality assurance~~
33 ~~revolving fund programs.~~

34 ~~2. The accomplishments from expenditures from the fund during the~~
35 ~~preceding fiscal year in terms of the reduction of contamination in the~~
36 ~~environment and actions taken to determine the nature and extent of~~
37 ~~contamination.~~

38 ~~3. The status of all sites on the registry, including the site~~
39 ~~locations, the basis for establishing site boundaries and whether remedial~~
40 ~~actions taken to date would support a modification of the boundaries of the~~
41 ~~site.~~

42 ~~4. The number of settlements made with responsible parties and the~~
43 ~~terms of each settlement.~~

44 ~~5. The number and types of settlements applied for and made pursuant~~
45 ~~to sections 49-292.01 and 49-292.02, including:~~

1 ~~(a) The number of applications submitted under each section.~~
2 ~~(b) The number of applications denied under each section.~~
3 ~~(c) The number of applicants who settled based on the formula in~~
4 ~~section 49-292.01, subsection C, paragraph 1 and the total amount of the~~
5 ~~settlements.~~

6 ~~(d) The number of settlements pursuant to section 49-292.02 and the~~
7 ~~total amount of the settlements.~~

8 ~~(e) The number of persons who met the definition of qualified business~~
9 ~~under section 49-292.01, subsection J but who settled pursuant to section~~
10 ~~49-292.02, for each such person, the amount of the settlement as a percentage~~
11 ~~of the person's average annual gross income for the two years preceding the~~
12 ~~request for settlement, and for all such persons, the total of the difference~~
13 ~~between the settlement amounts and the amounts that would have been paid~~
14 ~~based on the formula in section 49-292.01, subsection C, paragraph 1.~~

15 H. G. The director of environmental quality shall prepare and submit
16 a budget for the water quality assurance revolving fund program and the
17 director of water resources shall prepare and submit a budget for the Arizona
18 water quality fund with the departments' budgets that are required pursuant
19 to section 35-111. The committees on appropriations of the house of
20 representatives and the senate shall review the water quality assurance
21 revolving fund budget and the Arizona water quality fund budget and the
22 reports made pursuant to subsection G of this section to ensure that the
23 departments' expenditures are made in accordance with the legislature's
24 intent and that the departments are making adequate progress toward
25 accomplishing that intent.

26 Sec. 2. Repeal

27 Section 49-282, Arizona Revised Statutes, as amended by Laws 2003,
28 chapter 104, section 43, is repealed.

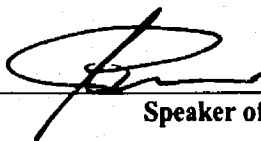
APPROVED BY THE GOVERNOR APRIL 11, 2005.

FILED IN THE OFFICE OF THE SECRETARY OF STATE APRIL 11, 2005.

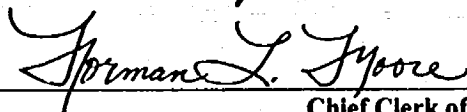
Passed the House April 4, 2005,

by the following vote: 56 Ayes,

0 Nays, 4 Not Voting



Speaker of the House

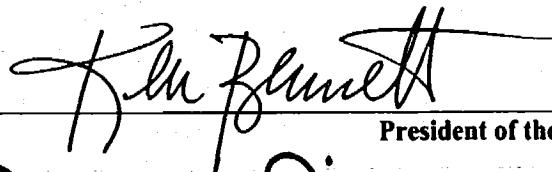


Chief Clerk of the House

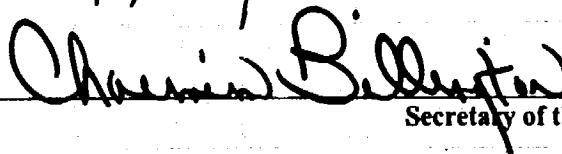
Passed the Senate March 8, 2005,

by the following vote: 28 Ayes,

0 Nays, 2 Not Voting



President of the Senate



Secretary of the Senate

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF GOVERNOR

This Bill was received by the Governor this

5th day of April, 2005

at 2:15 o'clock P. M.

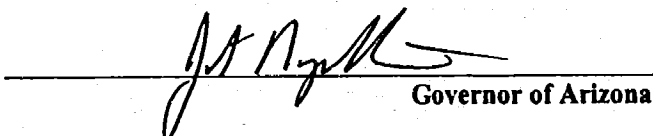


Secretary to the Governor

Approved this 11 day of

April, 2005,

at 10¹⁰ o'clock A. M.



Governor of Arizona

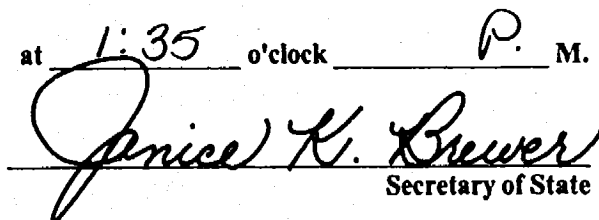
S.B. 1419

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF SECRETARY OF STATE

This Bill was received by the Secretary of State

this 11 day of April, 2005

at 1:35 o'clock P. M.



Secretary of State